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May 9, 2018

Via ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

**Re: Application for Review of Allband Communications Cooperative of the February 22, 2018 Order of the Wireline Competition Bureau
WC Docket No. 10-90, et al.
Notice of *Ex Parte***

Dear Ms. Dortch:

On May 7, 2018, Ron Siegel of Allband Communications Cooperative (“Allband”), Don Keskey of Public Law Resource Center PLLC (counsel for Allband) and John Kuykendall of JSI (Allband Representatives) met with Amy Bender, Office of Commissioner O’Rielly. On May 8, 2018, Allband Representatives met with Wireline Competition Bureau (“Bureau”) staff Ryan Palmer, Suzanne Yelen and Jesse Jachman (“Bureau Staff”), and also met separately with Jay Schwarz, Office of Chairman Pai, Travis Litman, Office of Commissioner Rosenworcel and William Scher, Office of the General Counsel.¹ The subject of discussion was the Allband Application for Review of the Bureau’s 2018 Allband Waiver Order which granted in part and denied in part Allband’s Petition for Waiver of Certain High-Cost Universal Service Rules.² Handouts provided to the participants are attached.

The Allband Representatives expressed their appreciation for the several favorable findings in the 2018 Allband Waiver Order and emphasized that the Application for Review does not seek review of those portions. The Allband Representatives then discussed the focus of the Application for Review which is whether the 2018 Allband Waiver Order arbitrarily and unreasonably fails to reimburse Allband for a proper and reasonable additional per-line amount, for the period July 20, 2016 through July 31, 2017. As shown on the attached schedule, based on calculations provided by the Universal Service Administrative Company (“USAC”) this additional per-line amount for this period is \$243,419 after the clawback amount has been deducted. The Allband Representatives also demonstrated that \$149,282 of this amount is associated with fixed investment so, at the very least, Allband should receive this amount of support for that period.

¹ Mr. Siegel joined the May 7 and 8 meetings via teleconference.

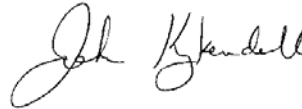
² *Application for Review of Allband Communications Cooperative of the February 22, 2018 Order of the Wireline Competition Bureau*, WC Docket No. 10-90 et al. (filed March 26, 2018); *In the Matter of Connect America Fund, Allband Communications Cooperative Petition for Waiver of Certain High-Cost Universal Service Rules*, WC Docket No. 10-90, DA 18-177 rel. Feb. 22, 2018 (“2018 Allband Waiver Order”)

In meetings with the Bureau Staff, the Allband Representatives were informed that Allband did not receive the remaining funds after the clawback was applied due to the absence of a waiver petition being approved between July 20, 2016 and July 31, 2017. In response, Allband Representatives cited Emergency Waiver Petitions Allband filed in June 2016 and January 2017³ and a discussion then ensued in which the Bureau Staff acknowledged that the Bureau had the authority to grant a waiver for that period of time but did not exercise that authority in this case. The result of these discussions was that questions still remain as to why the Bureau did not exercise the authority it had to grant a waiver for that period of time and whether its action arbitrarily and unreasonably imposes upon Allband a substantial unreasonable and unjustified penalty.

The Allband Representatives also requested that some reconsideration and additional recoupment of the per-line support for the period July 20, 2016 to July 31, 2017 be granted to enable Allband to maintain and expand service to its customers and to assist in Allband's efforts to restructure its federal loan with the Rural Utilities Service of the U.S. Department of Agriculture.

Please direct any questions regarding the filing to the undersigned.

Sincerely,



John Kuykendall
JSI Vice President
301-459-7590

Attachments

cc: Amy Bender
Ryan Palmer
Suzanne Yelen
Jesse Jachman
Jay Schwarz
Travis Litman
William Scher

³ Emergency Petition of Allband Communications Cooperative for Further Extension of its Waiver of the Part 54.302 Rule, WC Docket 10-90 et al. (filed June 29, 2016); Emergency Petition of Allband Communications Cooperative for Interim Partial Waiver of 54.302 Rule and for Increased Per-Line Support, WC Docket 10-90 et al. (filed Jan. 12, 2017).

**Ex Parte Presentation of Allband Communications Cooperative
May 7-8, 2018**

I. Application for Review of Allband Communications Cooperative (Allband) of the February 22, 2018 Order of the Wireline Competition Bureau (WCB)

- Filed March 26, 2008
- No comments filed opposing the petition

II. Application for Review does not seek review of the several portions of the WCB's February 22, 2018 Order that are favorable to Allband.

- Allband acknowledges and greatly appreciates these findings which include:
 - i. the determination of Allband's qualification for per-line reimbursement in the amount of \$457 per-line;
 - ii. the finding that Allband's per-line costs justify a finding of \$457 per-line in USF support commencing with July 1, 2016;
 - iii. the Order's restart of Allband's per-line reimbursement effective February 1, 2018;
 - iv. the finding that Allband should also be reimbursed an additional \$207 per-line (for a total of \$457 per-line), retroactive from August 1, 2017 through January 2018; and
 - v. favorable findings that Allband's cost accounting is now determined to be reliable.

III. On March 20, 2018, Allband received a letter from the Universal Service Administrative Company (USAC), purporting to calculate the implementation of the WCB order.

- While the WCB Order and USAC letter lacks clarity in some respects, the combined effect of the WCB Order and USAC letter appear to determine the following:
 - i. The total period of time for the claw-back applies from 2012 to July 20, 2016;
 - ii. USAC's letter determined that Allband was "overcompensated \$92,323 between July 2012 and July 20, 2016;"
 - iii. The Order requires USAC to offset the claw-back amount by the additional \$207 per loop per month times the number of loops for the time period of July 20, 2016 (the release date of the July 2016 Waiver Order) until August 1, 2017;
 - iv. For the six month period from August 1, 2017 – January 31, 2018, a retroactive payment will be made to Allband in the amount of no more than \$207 per loop per month. The USAC's letter calculates this amount as \$185,422, to be issued as part of the February 2018 support payments which has been disbursed to Allband in March.

IV. Allband's Application for Review seeks Commission review of those portions of the WCB Order that denies relief in part to Allband or which lack clarity at this time, which matters include the following questions:

- 1) Whether the WCB Order arbitrarily and unreasonably fails to reimburse Allband for a proper and reasonable additional per-line amount, for the period July 2016 through July 2017, which USAC calculates in the amount of \$335,742;
- 2) Whether the WCB Order, by its action identified in Question 1, and without any explanation or reasoning, arbitrarily and unreasonably imposes upon Allband a substantial unreasonable and unjustified penalty;
- 3) Whether the WCB Order is incomplete and lacks clarity with respect to the matters referenced in issues (1) through (2) above;
- 4) Whether the WCB Order (paragraph 24) erroneously finds that Allband's January 12, 2017 Emergency Waiver Petition with supporting documents and analysis is moot, when in fact the Emergency Petition remains highly relevant because it establishes that Allband's per-line costs for fixed investment or other costs is \$375 per-line, wholly aside from any disputed employee time or cost accounting allocations identified by USAC, and documented in their September 23, 2015 Memorandum.
- 5) Whether the WCB Order (paragraphs 27 and 28) arbitrarily and unreasonably rejects, or misunderstands, Allband's request for recognition of, and reimbursement for, the amount Allband was "shorted" by the July 2012 Waiver Order; Allband's request was not seeking to recover costs above the 2012 interim cap;
- 6) Whether the WCB Order (as challenged in part herein) is contrary to statutory provisions and the goals of the Commission's 2011 Rulemaking Order and the other various orders applicable to Allband, and is contrary to the public interest.

Amounts Per USAC Memo, March 20, 2018
Impacts Associated with Allband's Waiver of \$250 Cap

Support Before Budget Control Waiver Applied				Support After Budget Control Waiver Applied	
Fund	Current Month Support (201802)	201708 - 201801 PPA's	Sum of current month support plus PPA's	201708 - 201802	Diff
HCL	\$44,344	\$117,568	\$161,912	\$146,446	\$ (15,466)
ICLS	\$0	\$0	\$0	\$0	\$0
CAF BLS	\$24,815	\$67,854	\$92,669	\$86,391	\$ (6,278)
Total	\$69,159	\$185,422	\$254,581	\$232,837	\$ (21,744)

#1 New monthly support per Waiver Feb. 1, 2018 – Mar. 1, 2021

#5 Total amount of retroactive support per USAC paid Allband Aug. 1, 2017 – Jan. 31, 2018

#6 Amount of money not paid due to calculations issues with Budget Control Mechanism Aug. 1, 2017 – Jan. 31, 2018

#3 **Claw-back** amount for 2012 - 2015 calculated by USAC = **\$92,323**

#2 Total Prior Period Adjustment July 20, 2016- July 31, 2017

Adjustment to Allband's Claw-back	
Fund	Prorated PPA for 20160720 - 201707 ¹⁴
HCL	\$ 214,890
ICLS	\$ 44,377
CAF BLS	\$ 76,475
Total	\$ 335,742

#4 Amount of money not paid Allband = **\$243,419** (\$335,742-\$92,323)
 *Based on \$457/line/month specified in the order

Portion of \$335,742 associated with fixed investment: **\$241,605**
 *Based on \$375/line/month specified in the Emergency Petition
 #4 Amount of money not paid Allband = **\$149,282** (\$241,605 - \$92,323)

¹

¹ This information was provided verbally to Amy Bender and William Scher.